REMARKS

New claims 7-12 are currently being presented herein. The new claims presented herein do not introduce new matter within the meaning of 35 U.S.C. §132. Accordingly, the Examiner is respectfully requested to enter these amendments.

1. Rejection of Claims 1-6 Under 35 U.S.C. §102(b)

The Office Action states that claims 1-6 are rejected under 35 U.S.C. §102(b) as being anticipated by Tanaka, et al. (U.S. Patent 6,191,219). In particular, the Office Action states,

> 1.1. Regarding Claim 1, Tanaka discloses polypropylene composition , comprising (see claim 1):
>
> Component (A)- 50-90 wt% of polypropylene component, including (see lines 40-60, column 2) homopolymer of propylene or copolymers with alpha-olefins, wherein alpha-olefin content is preferably less than 8 wt.%-this component has same composition as Applicant's component (A)
>
> Component (B)-3-40 wt.% of ethylene/alpha-olefin copolymer, with ethylene content of 60 to 95 mole%, and molecular weight distribution (M_w/M_n), determined by gel permeation chromatography is less than 3 - this components reads on Applicant's component B2
>
> Component (C)- 2-20 wt.% of propylene/ethylene/1-butane copolymer, wherein propylene content is 50-85 mole% - same as in Applicant's component B1.
>
> 1.2. Tanaka silent about viscosity ratios between components A,B and C. However, viscosity range for component B (see line 50,page 4) is same-0.5 to 5.0 dl/g - as viscosity for Applicants component B2 (see paragraph [0027], page 2).
>
> Note, viscosity is inherent function of molecular weight and molecular weight distribution for polymers of the same chemical composition and can be also characterized by melt flow rate (MFR). Tanaka further discloses that preferable

MFR range for component A is from 1 to 50 g/10min.(see line 20, column 3), which is fully encompasses range of 0.3 to 15 g/10 min, claimed by Applicant(see paragraph [0017], page 2); for component B (see line 35, column 2) is from 0.5 to 10 g/10 min., and for component C (see line 60, column 6) is from 0.1 to 10 g/10 min.

Thus, viscosity ranges and ratios determine by MFR or by actual viscosity measurement will be in the same ranges as claimed by Applicant in Claims 1 and 2. Burden shifts to Applicant to prove the contrary by presenting factual comparative results.

1.3. Tanaka further discloses that important parameter for component B, (see lines 1 to 45, column 4) indicated state of compositional distribution of structural units or randomness of chain distribution, which is equivalent of CSD or blockness, claimed by applicant in Claim 1 for same component (B2).

Tanaka explained that randomness (B-value) could be in a range from 0 to 2 : 'The B-value equals 2, when both the comonomer units are ideally alterating in the ethylene/.alpha.-olefin random copolymer, and equals to zero, when both the comonomer units are present in the copolymer as ideal block-copolymer by being completely separately polymerized.' (see column 4,lines 27-43).

Note, that range of B-value discloses by Tanaka anticipate range of blockness values of 0.8 or less as it claimed by Applicant.

1.4. Presence of 'heterologus bond' claimed by Applicant in Claim 3 is inherent property of all propylene copolymers and depend on implemented catalytic system and polymerization conditions. Tanaka discloses presence and importance of this type of microstructure for specific applications (see lines 45-65,column 7).

1.5. Tanaka silent regarding stereoregularity of component A claimed by Applicant in Claim 4. However, stereoregularity is inherent property of polypropylene component and depend on type of catalytic system and polymerization process used for manufacturing of a particular propylene polymer. Because Tanaka discloses that polypropylene resin (A) can be produced by processes with solid titanium or metallocene catalyst (see line 5-10,column 3), same as Applicant indicated in disclosure, than degree of stereoregularity will be identical for both

polymers.

1.6. Tanaka also silent regarding morphology of obtained films from polypropylene composition, particularly about layers or needles, in specific sizes and aspect ratios as claimed by Applicant in Claim 5.

Again, phase morphology is inherent property of the composition and depends on compatibility of ingredients and relative quantities. Some production technique could alternate some aspects of phase morphology, but Applicant does not discloses or claimed any specific production technique. Burden shifts to the Applicant to provide factual evidence to the contrary.

1.7. Regarding Applicant's claim 6, Tanaka discloses that this composition specifically useful for superior non-stretched(good mechanical properties), transparent and impact resistant film.

RESPONSE

Applicant respectfully traverses the rejection of claims 1-6.

For a reference to anticipate an invention, all of the elements of that invention must be present in the reference. The test for anticipation under section 102 is whether each and every element as set forth in the claims is found, either expressly or inherently, in a single prior art reference. *Verdegaal Bros. V. Union Oil Co. of California,* 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.,* 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must also be arranged as required by the claim. *In re Bond,* 15 USPQ2d 1566 (Fed. Cir. 1990). There must be no differences between what is claimed and what is disclosed in the applied reference. *In re Kalm,* 154 USPQ 10, 12 (CCPA 1967); *Scripps*

v. Genentech Inc., 18 USPQ2d 1001, 1010 (Fed. Cir. 1991). Moreover, it is incumbent upon the Examiner to identify wherein each and every facet of the claimed invention is disclosed in the applied reference. *Ex parte Levy*, 17 USPQ2d 1461, 1462 (BPAI 1990). And the Examiner is required to point to the disclosure in the reference "by page and line" upon which the claim allegedly reads. *Chiong v. Roland*, 17 USPQ2d 1541, 1543 (BPAI 1990).

Arguments outlined in Applicant's previous responses of January 3, 2007, August 21, 2007, and March 7, 2008 are incorporated herein by reference in their entirety.

With respect to the current rejection, Applicant respectfully believes that Tanaka, et al. fails to teach, disclose, or suggest Applicant's currently claimed polypropylene resin compositions comprising:

a) 40 to 80% by weight of a polypropylene component (A) comprising a copolymer of propylene with ethylene and/or a C_{4-12} α-olefin wherein the amount of units derived from ethylene and/or a C_{4-12} α-olefin is at most 5% by weight, or a homopolymer of propylene, and

b) 20 to 60% by weight of a copolymer component (B) containing a copolymer (B-1) and a copolymer (B-2), wherein both the copolymer (B-1) and copolymer (B-2) are copolymers of propylene with ethylene and/or a C_{4-12} α-olefin, in the copolymer (B-1), the amount of units

derived from propylene is from more than 50% by weight to 85% by weight, and the copolymer (B-2) is a propylene copolymer where the amount of units derived from propylene is 15 to 50% by weight, the molecular weight distribution (Mw/Mn) by gel permeation chromatography is 3.0 or less, and blockness (CSD) determined using the measured NMR values is 0.8 or less;

in which composition the amount of (B-2) with respect to the whole polypropylene resin composition is at least 3% by weight, and a ratio of a limiting viscosity of the copolymer (B-1) to a viscosity of the polypropylene component (A), ([η]B-1/[η]A), is at most 1.5, and a ratio of a limiting viscosity of the copolymer (B-1) to the viscosity of copolymer (B-2), ([η]B-1/[η]B-2), is at least 0.8.

First and foremost, Applicant respectfully traverses the Examiner's assertion on page 3, line 18 - page 4, line 2, of the instant Office Action, which states,

> Tanaka explained that randomness (B-value) could be in a range from 0 to 2 : 'The B-value equals 2, when both the comonomer units are ideally alterating in the ethylene/.alpha.-olefin random copolymer, and equals to zero, when both the comonomer units are present in the copolymer as ideal block-copolymer by being completely separately polymerized.' (see column 4,lines 27-43).
>
> Note, that range of B-value discloses by Tanaka anticipate range of blockness values of 0.8 or less as it claimed by Applicant.

However, Applicant respectfully disagrees with the Examiner's

conclusion outlined above. In fact, the full disclosure surrounding the above-captioned portion of Tanaka, et al. highlighted by the Examiner states,

> The ethylene/α-olefin random copolymer (B) has preferably **a parameter (B-value)** for the randomness of chain distribution of monomeric units in the copolymer, determined by ^{13}C-NMR, **in the range of 1.0-1.4**. The B-value is a parameter indicating the state of compositional distribution of structural units in the molecular chain of the copolymer and can be calculated according to the following equation (I).
>
> B = POE/(2*PO*PE)
>
> In this equation, PE and PO represent the mole fractions of the ethylene units and the α-olefin units, respectively, in the ethylene/α-olefin random copolymer and POE is a proportion of number of ethylene/α-olefin alternating chains in the total number of dyad chains.
>
> The values for PE, PO and POE can be calculated in the practice as follows:
>
> A sample of an ethylene/α-olefin random copolymer (B) is prepared by dissolving 200 mg of the random copolymer homogeneously in 1 ml of hexachlorobutadiene in a 10 mm Φ test tube, whereupon ^{13}C-NMR spectrum of this sample is observed under the following conditions:
>
> | | |
> |---|---|
> | examination temperature | 120° C. |
> | examination frequency | 20.05 MHz |
> | breadth of spectral line | 1500 Hz |
> | width of filter | 1500 Hz |
> | pulse repetition interval | 4.2 sec. |
> | pulse width | 7 μ sec. |
> | number of integration | 2,000-5,000 |
>
> The values of PE, PO and POE can be determined according to the methods reported, for example, by G. J. Ray {'Macromolecules', 10, 773 (1977)}, by J. C. Randall {'Macromolecules', 15, 353 (1982)} and by K. Kimura {'Polymer', 25, 4418 (1984)}, based on the ^{13}C-NMR spectrum observed as above.
>
> The B-value equals 2, when both the comonomer units are **ideally** alterating in the ethylene/α-olefin random

> copolymer, and equals to zero, when both the comonomer units are present in the copolymer as **ideal** block-copolymer by being completely separately polymerized.
>
> **When an ethylene/α-olefin random copolymer (B) having a B-value in the range of 1.0-1.4 is used, a polypropylene resin composition exhibiting superior heat resistance can be obtained.** (Emphasis added).

Accordingly, firstly, Tanaka, et al. clearly discloses that the **B-value** for the ethylene/α-olefin random copolymer (B) should be from **1.0 to 1.4** to produce a resin having superior heat resistance, which is the object of Tanaka, et al. See col. 1, lines 35-39. Therefore, this additionally dictates if a polypropylene resin composition having superior heat resistance is not obtained, then the ethylene/α-olefin random copolymer (B) does **not** have a B-value from 1.0 to 1.4. Accordingly, if the object of the disclosure of Tanaka, et al. is not obtained, then the ethylene/α-olefin random copolymer does **not** have the required B-value from 1.0 to 1.4. Thus, Applicant respectfully believes any ethylene/α-olefin random copolymer **not** having the required B-value from 1.0 to 1.4 would not, at the very least, be within the scope of the supposed invention described in Tanaka, et al., and as such would not be described with sufficient specificity to constitute an anticipation under the statue, as well as would not be sufficiently described in Tanaka, et al. to enable one of ordinary skill in the art to adequately produce compositions comprising an ethylene/α-olefin random copolymer **not** having the required B-value from 1.0 to 1.4. As such, for this

reason alone, Applicant respectfully believes the current rejection should be withdrawn.

Notwithstanding the above, taking the entire disclosure of Tanaka, et al. into context surrounding the above-captioned portion highlighted by the Examiner, which is outlined above, Tanaka, et al. discloses that the B-value, which is derived mathematically from formula (I), can theoretically equal 2 when both comonomer units are **ideally** altering in the ethylene/α-olefin random copolymer. However, the ideal altering of the comonomer units in the ethylene/α-olefin random copolymer is merely theoretical. As such, this upper value of 2, which is merely a single possible mathematical result of formula (I) amongst a myriad of other possible values, is simply a theoretical result derived from formula (I), and **not** an actual B-value the ethylene/α-olefin random copolymer can have. Therefore, the upper range of 2 of the B-value disclosed in Tanaka, et al., which the Examiner is attempting to use to substantiate the instant anticipation rejection, **is merely a theoretically mathematical value that formula (I) can possibly produce, and not an actual value that the ethylene/α-olefin random copolymer of Tanaka, et al. can have.** In fact, as outlined above, if the object of the disclosure of Tanaka, et al. is not obtained, then the ethylene/α-olefin random copolymer does **not** have a B-value from 1.0 to 1.4. Accordingly, any ethylene/α-olefin random copolymer **not** having a B-value from 1.0 to 1.4 would not be within

the supposed invention of Tanaka, et al.

Similarly, the lower range of zero for the B-value disclosed in Tanaka, et al. can only occur if the comonomer units are present in the copolymer as **ideal** block-copolymers by being completely separately polymerized. However, as with the merely theoretical and mathematical upper value of 2 for the B-value disclosed in Tanaka, et al., the lower range of zero is also only merely a **theoretically mathematical value** as well, **and not an actual value that the ethylene/α-olefin random copolymer of Tanaka, et al. can have.** As with the theoretically mathematical upper value of 2 for the B-value disclosed in Tanaka, et al., any ethylene/α-olefin random copolymer **not** having a B-value from 1.0 to 1.4 would not be within the supposed invention of Tanaka, et al. Accordingly, since the range for the B-value in Tanaka, et al. being relied upon by the Examiner would not have placed the public in possession of these values, Applicant respectfully believes the values relied upon by the Examiner are not sufficient to establish an actual anticipation under the statue. As such, Applicant respectfully believes the current rejection should be withdrawn.

Furthermore, Applicant traverses the Examiner's use of the document "Polypropylene" by R. Lieberman, et al. (herein referred to as "R. Lieberman, et al.") in the instant rejection. First and foremost, the current Office Action states claims 1-6 are rejected as **anticipated** by Tanaka, et al. As outlined *supra*, well-established law clearly states that anticipation must be found

within a single reference. See *Verdegaal Bros. V. Union Oil Co. of California,* 2 USPQ2d 1051, 1053 (Fed. Cir. 1987), *Richardson v. Suzuki Motor Co.,* 9 USPQ2d 1913, 1920 (Fed. Cir. 1989), and *In re Bond,* 15 USPQ2d 1566 (Fed. Cir. 1990). The **only** caveat to this rule is when references are used to interpret what the allegedly anticipating reference discloses, or in the case of inherency, is used to make clear the missing described matter is necessarily present in the thing described in the reference. See *Studiengesellschaft Kohle, M.B.H. v. Dart Industries, Inc.,* 726 F.2d 724, 726, 220 U.S.P.Q. 841, 842 (Fed. Cir. 1984), and *Continental Can Company USA, Inc. v. Monsanto Company,* 948 F.2d 1264, 20 U.S.P.Q.2D. 1746 (Fed. Cir. 1991). However, the additional references **may not** be used to supplement, expand, or fill gaps in the teachings of the applied reference, nor is this caveat a substitute for determination of patentability in terms of §103, *Id.* at 726 F.2d 724, 726, and 948 F.2d 1264. Additionally, the Examiner must provide factual and technical grounds establishing that the inherent feature **necessarily flows** from the teachings of the prior art. See *Ex parte Levy,* 17 U.S.P.Q.2d 1461, 1464 (BPAI 1990). Inherency **must** flow as **a necessary conclusion** from the prior art, not simply a possible one. *In re Oelrich,* 666 F.2d 578, 581, 212 U.S.P.Q. 323, 326 (C.C.P.A. 1981). Additionally, for the Examiner to establish inherency, the extrinsic evidence "must make clear that the missing descriptive matter is **necessarily** present in the thing

described in the reference. Inherency, however, **may not be established by probabilities or possibilities**. The mere fact that a certain thing **may result** from a given set of circumstances **is not sufficient**." *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999), (Emphasis added).

With respect to the instant rejection, Applicant respectfully believes the Examiner is impermissibly using R. Lieberman, et al. in an attempt to expand and fill gaps in the disclosure of Tanaka, et al. In fact, the Examiner states in the instant Office Action on page 5, line 15 - page 6, line 5,

> Applicant requested provide evidence to support Examiner statement (see rejection, paragraph 1.2):
>
> 'viscosity is **inherent** function of molecular weight and molecular weight distribution **for polymers of the same chemical composition** and can be also characterized by melt flow rate (MFR).'
>
> ******
>
> . . . Instead, **polymer chain length** is measured indirectly in several ways. For many years, the intrinsic viscosity (IV) of the polymer was measured. IV results were directly proportional to **polymer chain length**. That is, the higher the IV, the longer the average **chain length**. (Emphasis added).

However, first and foremost, Applicant respectfully believes the Examiner has not demonstrated the polymer compositions of Tanaka, et al. are "the same chemical composition" as currently claimed by Applicant. In fact, the Examiner's basis for the current rejection is irrevocably flawed insomuch that the Examiner must

assume Applicant's currently claimed compositions are anticipated by Tanaka, et al. (i.e., the compositions of Tanaka, et al. are of "the same chemical composition" as those currently claimed) in order to try and substantiate the Examiner's basis for attempting to prove all of the supposed inherent features supposedly disclosed in Tanaka, et al., are in fact necessarily present. However, this type of circular reasoning is clearly erroneous. Anticipation cannot be loosely applied in order to try and substantiate a charge of inherency, or, in other words, as an attempt to supplement, expand, or fill the gaps of Tanaka, et al. *Id.* 948 F.2d 1264. Accordingly, given the Examiner is using the wrong legal standard required for an anticipation rejection under the statue, as well as using the wrong legal standard for an anticipation rejection based on inherency under the statue and legal precedent, Applicant respectfully believes the current rejection should be withdrawn.

Additionally, Applicant respectfully believes the current rejection is irrevocably flawed given the Examiner has provided no evidence demonstrating that the supposed melt flow rate ranges disclosed in Tanaka, et al. necessarily are the same as the currently claimed intrinsic viscosity ratios claimed by Applicant. See page 3, lines 3-13 in the current Office Action. In an attempt to establish such a necessity, the Examiner cites R. Lieberman, et al. However, Lieberman, et al. merely states that intrinsic viscosity results are proportional to the **average** polymer chain length, while melt flow rate results are the **inverse of chain**

length. See page 530, lines 2-4, and line 14 in Lieberman, et al. Furthermore, Lieberman, et al. merely states polymer chain length can be related to melt flow rate, but that all reactions produce polymers with unequal chain lengths. See page 530, lines 22-23 and 26-27 in Lieberman, et al. Accordingly, even if in the broadest and most general terms there may be some random intermittent correlation between the various physical properties of polymers, the Examiner has not demonstrated in any capacity that the currently specifically claimed intrinsic viscosity ratios of the currently claimed resins are inherently, **without probabilities or possibilities**, disclosed in Tanaka, et al., and Lieberman, et al. does not remedy this deficiency. In fact, there is absolutely no disclosure, teaching, or suggestion in Tanaka, et al. to arrive at any conclusion otherwise, nor does Lieberman, et al. provide any extrinsic evidence to the contrary. Therefore, Applicant respectfully believes the current rejection should be withdrawn.

In addition to the arguments *supra*, Applicant generally traverses the Examiner's use of Lieberman, et al. based on the publication date of the document. In particular, based on the information provided to Applicant by the Examiner, Applicant believes Lieberman, et al. was made publicly available on **March 24, 2006**. However, Applicant's instant application has an effective U.S. filing date of **March 10, 2003**, with a priority filing date of **March 14, 2002**, and Tanaka, et al. has an effective U.S. filing date

of **February 10, 1999**, with a priority filing date of **February 10, 1998**. Although Applicant is aware it is not wholly improper to rely on a document as extrinsic evidence having publication date after the critical dates of Applicant's application, it is however incumbent on the Examiner to explain how Lieberman, et al. sheds light on what Tanaka, et al. would have meant to those skilled in the art at the time of filing of Tanaka, et al., and not to improperly supplement, expand, or fill gaps in Tanaka, et al., or how Lieberman, et al. makes clear the missing descriptive matter is **necessarily** present in Tanaka, et al., and that the disclosure is sufficient to show that the natural result flowing from the operation as taught would result in the performance of the questioned function. *Id.* at 726 F.2d 724, 726, and 948 F.2d 1264. However, as outlined above, the current rejection clearly falls short of the required showing by the Examiner. As such, Applicant respectfully believes the use of Lieberman, et al. by the Examiner should rescinded, and the current rejection should be withdrawn.

Furthermore, the Examiner has yet to address several issues outlined in Applicant's previous responses, including the fact that the Examiner is still rejecting currently pending claims 3, 4, and 5 based on anticipatory inherency, without providing any objective factual evidence to support such a rejection. Accordingly, if the current rejection is maintained, Applicant respectfully requests the Examiner to provide objective factual evidence to support the rejection of claims 3, 4, and 5, based inherent anticipation by

In light of the above, claims 1-12 are therefore believed to be patentable over the Tanaka, et al. patent. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

CONCLUSION

Based upon the above remarks, the presently claimed subject matter is believed to be novel and patentably distinguishable over the prior art of record. The Examiner is therefore respectfully requested to reconsider and withdraw all rejections and allow all pending claims 1-12. Favorable action with an early allowance of the claims pending in this application is earnestly solicited.

The Examiner is welcomed to telephone the undersigned practioner if she has any questions or comments.

Respectfully submitted,

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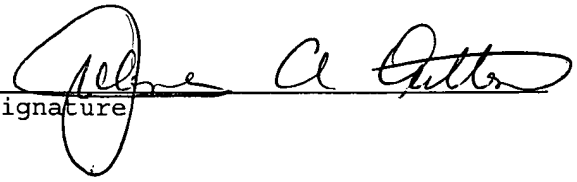

Signature

October 1 2008

Date